

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 93-670-W/S - ORDER NO. 97-392

MAY 12, 1997

IN RE: Application of Mountain Bay Estates	)	ORDER RESCINDING
Utility Co., Inc. for an Increase in	)	ORDER NO. 97-255
its Water and Sewer Rates.	)	AND PROMULGATING
	)	ORDER OF THE
	)	CIRCUIT COURT

This matter comes before the Public Service Commission of South Carolina (the Commission) on its own Motion to rescind the provisions of Order No. 97-255, and to promulgate the rate provisions of the Circuit Court Order of the Honorable L. Henry McKellar of November 19, 1996.

On March 27, 1997, we issued Order No. 97-255 in this Docket. Pursuant to the provisions of S.C. Code Ann. Section 58-5-320 (1976), we hereby rescind said Order.

We have now further reviewed the November 19, 1996 Order of the Honorable L. Henry McKellar, and have concluded that we must follow its tenets as the law of this case, even though we do not agree with the rate provisions of that Order.

The controversy in this case is over this Commission's treatment of enhancement fees which we annualized at \$132,000, and imputed to Mountain Bay Estates Utility Company, Inc. (Mountain Bay or the Company) as utility income. (By way of review, the developer had placed \$132,000 in enhancement fees on Mountain

Bay's books as income during 1993.) With this income included, the Commission found that Mountain Bay earned an operating margin during the test year of 3.86% with its current combined water and sewer rate of \$8.00. We found this operating margin to be fair and reasonable and denied Mountain Bay's request for a rate increase in its entirety.

Judge McKellar's Order held that it was reversible error for us to treat the enhancement fees paid to the Foxwood Corporation as utility income to Mountain Bay. We have disagreed, and continue to disagree with this proposition, since the fees were on the utility's books.

However, in any event, in order to comply with the Circuit Court's Order, we find that Mountain Bay must be granted additional rate revenue of \$132,000 in lieu of the enhancement fees previously found to be utility income. In our previous Orders, we have discussed the applicability of the operating margin methodology in water and wastewater cases. (See Order No. 94-697.) We hereby adopt said language herein as fully as if repeated herein verbatim.

We find that an appropriate operating margin under these circumstances for Mountain Bay is 3.86%. This is calculated as follows:

TABLE A  
OPERATING MARGIN

Operating Revenues	\$170,616
Operating Expenses	164,137
Net Operating Income	<u>6,479</u>
Customer Growth	104
Total Income for Return	<u>6,583</u>
Operating Margin (After Interest)	3.86%

We believe that this operating margin is fair and reasonable, and is mindful of the standards delineated in the Bluefield and Hope decisions as outlined in Order No. 94-697. It allows the Company to recover its expenses, enables the Company to raise funds necessary for the discharge of its duties, and provides the Company's shareholders with an opportunity to earn a return on their investment.

With these factors in mind, we must design rates.

The three fundamental criteria of a sound rate structure have been characterized as follows:

...(a) the revenue-requirement or financial-need objective, which takes the form of a fair-return standard with respect to private utility companies; (b) the fair-cost apportionment objective which invokes the principle that the burden of meeting total revenue requirements must be distributed fairly among the beneficiaries of the service; and (c) the optimum-use or consumer rationing under which the rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between costs incurred and benefits received.

Bonbright, Principles of Public Utility Rates, (1961), p. 292.

The Commission has considered the proposed increase presented by the Company in light of the various standards to be observed and the interests represented before the Commission. The Commission has also considered the impact of the proposed increase on the ratepayers of the Company. The Commission must balance the interest of the Company-- the opportunity to make a profit or earn a return on its investment, while providing adequate water service-- with the competing interest of the ratepayers-- to receive adequate service at a fair and reasonable rate. In balancing these competing interests, the Commission has determined that the schedule of rates and charges attached hereto as Appendix A comports with Judge McKellar's Order, based on the criteria as stated above. We believe that the rates approved meet the standards of the three fundamental criteria of a sound rate structure as discussed above. We think that the rates allow the Company to make a fair return, while fairly apportioning the additional revenue requirement fairly among the beneficiaries of the service, based on the requirements of Judge McKellar's Order. Further, the rates are designed to discourage the wasteful use of public utility services, while promoting all use that is economically justified in view of the relationship between costs incurred and benefits received.

Based upon the above considerations and reasoning, it is ordered that the rates and charges approved herein and as shown on Appendix A to the Order are approved for service rendered on or after the date of this Order. This rate schedule is deemed to be

filed with the Commission pursuant to S.C. Code Ann. Section 58-5-240 (1976).

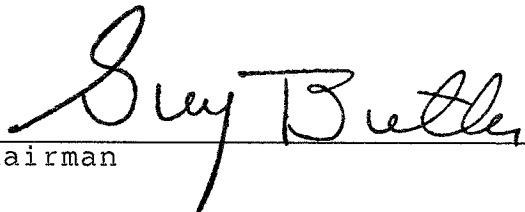
Should this schedule not be placed into effect until three (3) months from the effective date of this Order, the schedule shall not be charged without written permission of the Commission.

Further, the Company shall maintain its books and records for water and sewer operation in accordance with the NARUC Uniform System of Accounts for Class B water and sewer utilities as adopted by this Commission.

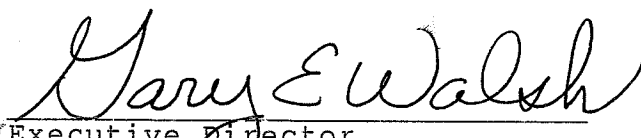
Finally, as noted above, we do not agree with the holding of the Circuit Court on the portions of its November 19, 1996 Order, that addressed the Commission's treatment of enhancement fees, but feel that we were obligated to comply with it herein. However, we hereby instruct Staff to appeal this portion of the Circuit Court Order of November 19, 1996, immediately.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)

## APPENDIX A

MOUNTAIN BAY ESTATES UTILITY COMPANY, INC.  
MS. PATSY LAND  
2299 DOCTOR JOHNS RD.  
WESTMINSTER, S.C. 29693  
(864)647-9514

FILED PURSUANT TO DOCKET NO. 93-670-W/S ORDER NO. 97-392  
EFFECTIVE DATE: MAY 12, 1997

### SCHEDULE OF PROPOSED RATES AND CHARGES

#### User Fees - Monthly

##### Water:

Residential	Per Lot	\$ 18.95 Flat Rate
Commercial	Per Tap	\$ 30.00 Flat Rate
RV Sections	Per RV Lot	\$ 8.90 Flat Rate

Services provided to multiple  
condominium units will be billed at \$ 18.95 per unit.

Services provided to commercial  
units will be billed at \$ 30.00 per tap.

Connection Fee (new customer) \$250.00

Disconnect/Reconnect  
At Customer's Request \$ 50.00

Disconnect/Reconnect  
For Delinquent Account \$ 50.00

##### Sewer:

Residential	Per Lot	\$ 28.95 Flat Rate
Commercial	Per Tap	\$ 35.00 Flat Rate
RV Sections	Per RV Lot	\$ 8.90 Flat Rate

Services provided to multiple  
condominium units will be billed at \$ 28.95 per unit.

Services provided to commercial  
units will be billed at \$ 35.00 per tap.

Connection Fee (new customer) \$400.00